

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARCUS BLACKWELL,

Plaintiff,

v.

JAMES DZURENDA, *et al.*,

Defendants.

Case No. 3:19-cv-00636-MMD-CLB

ORDER

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a state prisoner. On September 28, 2020, Magistrate Judge Carla Baldwin issued an order directing Plaintiff to file his updated address with Judge Baldwin on or before October 28, 2020. (ECF No. 6.) The deadline has now expired, and Plaintiff has not filed his updated address or otherwise responded to the Judge Baldwin's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with

1 local rules).

2 In determining whether to dismiss an action for lack of prosecution, failure to obey
3 a court order, or failure to comply with local rules, a court must consider several factors:
4 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
6 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
7 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
8 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the Court finds that the first two factors, the public's interest in expeditiously
10 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
11 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
12 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
13 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
14 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
15 disposition of cases on their merits—is greatly outweighed by the factors in favor of
16 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
17 the court's order will result in dismissal satisfies the "consideration of alternatives"
18 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
19 at 1424. Judge Baldwin's order requiring Plaintiff to file his updated address on or before
20 October 28, 2020, expressly stated: "It is further ordered that, if Plaintiff fails to timely
21 comply with this order, the Court shall dismiss this case without prejudice." (ECF No. 6.)
22 Thus, Plaintiff had adequate warning that dismissal would result from his noncompliance
23 with Judge Baldwin's order to file his updated address on or before October 28, 2020.

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1 It is therefore ordered that this action is dismissed without prejudice based on
2 Plaintiff's failure to file an updated address in compliance with Judge Baldwin's
3 September 28, 2020 order.

4 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1)
5 is denied as moot.

6 It is further ordered that the Clerk of Court will close the case and enter judgment
7 accordingly.

8 DATED THIS 3rd Day of November 2020.

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11 MIRANDA M. DU
12 CHIEF UNITED STATES DISTRICT JUDGE
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